



POLICE DEPARTMENT

April 20, 2015

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Annie Lowers
Tax Registry No. 951942
112 Precinct
Disciplinary Case No. 2014-11525

The above-named member of the Department appeared before me on October 22, 2014 and January 16, 2015, charged with the following:

1. Said Police Officer Annie Lowers, assigned to the 112th Precinct, on or about January 11, 2014, while on duty in the 112 Precinct, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: having been involved in a Department vehicle collision with a civilian vehicle which resulted in property damage, said Police Officer failed to remain at the scene of the collision and to report the occurrence of this incident.

P.G. 203-10, Page 1, Paragraph 5 ■ PUBLIC CONTACT - PROHIBITED CONDUCT

2. Said Police Officer Annie Lowers, assigned as indicated in Specification Number 1, on or about January 11, 2014, while on duty in the 112 Precinct, failed to prepare a Report of Motor Vehicle Accident (MV104) after having been involved in a Department vehicle collision with a civilian vehicle which resulted in property damage.

P.G. 217-06, Page 1, Paragraph 4 – DEPARTMENT VEHICLE COLLISIONS

3. Said Police Officer Annie Lowers, assigned as indicated in Specification Number 1, on or about January 11, 2014, while on duty in the 112 Precinct, failed to obtain the civilian motorist's contact information, and failed to request the presence of a patrol supervisor, after having been involved in a Department vehicle collision with a civilian vehicle.

P.G. 217-06, Page 1, Paragraph 1-2 – DEPARTMENT VEHICLE COLLISIONS

4. Said Police Officer Annie Lowers, assigned as indicated in Specification Number 1, on or about January 11, 2014, while on duty in the 112 Precinct, failed to make entries to her Activity Log regarding the vehicle accident she had been involved in.

P.G. 212-08, Page 1. Paragraph 1-2 – COMMAND OPERATIONS ACTIVITY LOGS

The Department was represented by Rudolph Behrmann, Esq., Department Advocate's Office, and Respondent was represented by John Tynan, Esq.

Respondent, through her counsel, entered a plea of Not Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

After evaluating the testimony and the evidence presented at the hearing and assessing the credibility of the witnesses, this tribunal finds that the preponderance of the credible evidence did not establish that Respondent engaged in the charged misconduct.

FINDINGS AND ANALYSIS

Introduction

The following facts are not in dispute. On January 11, 2014, Respondent and her partner, Police Officer Hakeem Olageshin, were on duty, on patrol in a marked radio motor patrol car (RMP).¹ Olageshin was the operator and Respondent was the recorder. Around 4:30 p.m., Olageshin was traveling northbound on Yellowstone Boulevard when he made a left turn onto Juno Street and an immediate right onto Selfridge Street in the confines of the 112 Precinct.

¹ Police Officer Hakeem Olageshin was on dismissal probation and subsequently terminated.

At the same time, the complainant, Ricardo Silva was stopped at a stop sign at the intersection of [REDACTED].² As Olageshin turned onto Selfridge Street, (a somewhat narrow street when cars are parked on both sides), the driver's side mirrors of both vehicles came in contact with each other. Silva testified that it was not a major collision, but he felt his mirror, a stationary one, move. Olageshin rolled down his window and so did Silva. Silva testified that he thought Olageshin was going to apologize. Instead, Olageshin said words to the effect that Silva should be more careful driving. Silva responded in kind to Olageshin. The RMP then proceeded with no further exchange between the parties. Silva testified that he was upset because he was stopped at a stop sign and Olageshin was the only moving vehicle.

Silva made a 311 complaint about the incident. Silva acknowledged that he had no idea there was any damage to his vehicle until police responded to interview him and when they examined his vehicle, it was at that time that he observed the scratches to his mirror. Silva acknowledged that he does not park his car on the street, that he does not drive his car to work, and that in 12 years of ownership he has only put 60,000 miles on the car, thus, it seemed his car was in pretty good condition.

Failure to remain at the scene of a Department vehicle collision and report the incident; Failure to Prepare a Report of Motor Vehicle Accident (MV104); Failure to request the response of a patrol supervisor

Respondent testified that although she observed her partner, Olageshin, roll down his window and speak with the motorist, she was unaware that any contact occurred between the two vehicles. She testified that she did not feel any impact of the cars colliding. Respondent also stated that since she was the recorder in the RMP, she

² Ricardo Silva testified at this proceeding.

inspected the car before they left the command and the car had dents and scratches on it and she noted such in her Activity Log that the car was in poor condition.³ She also stated that she did not make any particular observations of the condition of the mirror when she conducted her inspection. She further explained that since there was no damage to the RMP during the tour to her knowledge, she did not inspect the vehicle at the end of the tour and did not make any notes about the condition of the RMP at the end of her tour.

It is the belief of the Court that the RMP did not collide into the civilian vehicle and make such an impact that required Respondent to remain at the scene and report the incident. Evidence of this is that Silva did not exit his vehicle to check on his car and thought there was no damage until he learned later on that his mirror had scratches. Likewise, Respondent and her partner did not exit the RMP. Silva testified that he had a stationary mirror on his car. It did not fold or bend and there was no damage to the mirror or casing aside from the scratches. Therefore, there was no such collision requiring Respondent to remain at the scene, prepare a Motor Vehicle Accident report (MV104), obtain the motorist's information or to request the response of a patrol supervisor.

Accordingly, Respondent is found Not Guilty of Specification Nos. 1, 2 and 3.

Failure to Make Activity Log Entries Regarding a Motor Vehicle Accident

Respondent testified that she did not feel any impact on her side of the vehicle. In fact, when an investigation was done of the matter, the photographs indicated scratches to

³ It was stipulated between the parties that Respondent's Activity Log noted that the RMP was in poor condition when she inspected it prior to going out in the field.

driver side mirrors of both vehicles (See Department Exhibits (DX 3 and DX 4). Since the damage caused resulted in scratches to the mirrors and there was no evidence of any further damage to the vehicle, there was no reason for Respondent, the recorder, to believe that she needed to make an Activity Log entry about an accident she did not know to exist.

While this Court can only speculate as to the observations Respondent's partner, Olageshin made regarding the mirrors when he rolled down his window, there is nothing in the record to suggest that he knew that he scratched Silva's mirror since Silva rolled down his window also and was unaware of any damage to the RMP mirror.

Accordingly, Respondent is found Not Guilty of Specification No. 4

Respectfully submitted,

Claudia Daniels-DePeyster *RM*

Claudia Daniels-DePeyster
Assistant Deputy Commissioner – Trials

APPROVED

JUL 27 2015
William J. Bratton
WILLIAM J. BRATTON
POLICE COMMISSIONER